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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,994	03/19/2001	Hatem Oueslati	PALM-3615.US.P	9601
49637	7590	06/21/2006	EXAMINER	
BERRY & ASSOCIATES P.C. 9255 SUNSET BOULEVARD SUITE 810 LOS ANGELES, CA 90069			NANO, SARGON N	
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/811,994

Applicant(s)

OUESLATI ET AL.

Examiner

Sargon N. Nano

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. This action is responsive to amendment filed on Oct. 11, 2005. Claims 1-23 are pending examination. Claims 1, 8, 13, 21 and 23 are amended. Claims 1 – 23 are pending examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 13, and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

MPEP 2106 IV.B.2. (b)

A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. *Schrader*, 22 F.3d at 296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts.

Claim 1 in view of the above cited MPEP sections, is not statutory because normal practice says word steps is reserved for process or method.

Claim 13 in view of the above cited MPEP sections, is not statutory because the claim does not perform any steps but rather describing the steps, in other words it lacks tangibility.

Claim 23 in view of the above cited MPEP sections, is not statutory because it does not use the concept of storage.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 21 recites the limitation "the sending application" in line 4 and line 10 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1, 6, 7, 13, 19 – 21, 22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Gai et al., U.S Patent No. 6,651,101 (referred to hereafter as Gai).

Gai teaches the method and apparatus for identifying network data traffic flows and for applying quality of service treatment to the flows, Gai teaches the identification of specific traffic flows originating from a given network entity and requests applies appropriate policy rules or service treatments to the traffic flows (see abstract).

As to claims 1, 13, 21 and 23 Gai teaches a method of communication, a protocol, a system and a machine - readable medium comprising the steps of:

a) sending application resident on a first computer system selecting a transport mechanism and passing data having a first data type to a first utility program resident on said first computer system; (see col. 5 line 65 – col. 6 line 42 and fig. 4A, Gai discloses sending an application residing on a server to a middleware).

b) said first utility program, adding a token, a first category type identifier corresponding to said first data type and a first data type identifier corresponding to said first data type, to said data to form an information packet and wherein said first utility program selects a transport mechanism to transmit said information packet to a second computer system, said transport mechanism transparent to said sending application, (see col. 7 line 65 – col. 8 line 14, and col. 10 line 10 – 37, Gai discloses application identifier upon the start up call);

c) a second utility program, resident on said second computer system, locating said first data type identifier and said first category type identifier in said information packet using said token, (see col.16 lines 21- 47, Gai discloses packets received at the policy enforcer and examined according to certain policy rules).

d) said second utility program indexing a relevant one of the plurality of category types corresponding to said category type identifier of an application registry with said first data type identifier to determine a destination application that is

associated with said first data type identifier(see col. 15 line 49 – col. 16 line 8, Gai discloses the classification and management rule of the data packets in traffic flow); and

e) supplying said data to said destination application. (see col. 11, lines 9 – 20 Gai discloses sending anticipated traffic flow to a destination address).

As to claims 6 ,9 and 22 Gai teaches the method and system of claims 1 and 13 respectively where category types comprises a MIME and an application Creator category (see col. 10 lines 8 – 37, Gai discloses different aspects of information flow such as MIME).

As to claims 7 and 20 Gai teaches the method of claim 1 where in said first category type identifier is numeric value (see col. 8 lines 9 - 15. Gai discloses the version number that corresponds to the version of the software used).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 – 5, 8–12, 14 – 18 , are rejected under 35 U.S.C. 103(a) as being unpatentable over Gai and further in view of Fox et al, US Patent No. 6654786 (referred to hereafter as Fox).

As to claims 2 and 14, Gai teaches a communication protocol comprising the steps of:

sending application resident on a first computer system, adding a token, locating said data type identifier , indexing relevant category of an application registry and supplying said data packet to said destination application. (see rejection of claim 1).

Gai does not explicitly teach a communication protocol wherein first computer system and second computer system are portable computer systems whereas Fox teaches first computer system and second computer system are portable computer systems (see col.3, lines 42-51). It would have been obvious to one of the ordinary skill in the art at the time of the invention to include portable computer systems in Gai because doing so would allow the users to connect from a different geographical location.

As to claims 3 and 15, Fox teaches first computer system and second computer systems are hand held portable systems (see fig.1 and col. 3. lines 42-51).

As to claims 4 and 16, Gai does not explicitly teach. A communication protocol as wherein transport mechanism is substantially compliant with the Short Message Service (SMS) standard, where as Fox teaches a communication protocol as wherein transport mechanism is substantially compliant with the Short Message Service (SMS) standard (See col.2 lines 42-55). It would have been obvious to one of the ordinary skill in the art at the time of the invention to include the Short Message Service (SMS) standard in Gai

invention to receive brief messages including text and numerals which requires less processing capability to process and therefore less time and resource utilization.

As to claims 5, 17 and 18, Fox teaches a communication protocol wherein transport mechanism includes the use of a GSM wireless communication device. (See fig.1 and col. 2. lines 42-51).

As to claim 8, Gai teaches a communication protocol comprising the steps of:

a) sending application resident on a first computer system and passing data having a given data type to a first utility program resident on said first computer system; (see col. 4, lines 23-32).

b) said first utility program, adding a token, a first category type identifier corresponding to said given data type, and a first data type identifier corresponding to said given data type, to said data to form an information packet wherein said first utility program selects a wireless transport mechanism to transmit said information packet to a second wireless transport mechanism transparent to said sending application, using said wireless transport mechanism to transmit said information packet to second computer system (see col. 7 line 65 – col. 8 line 14 , and col. 10 line 10 – 37);

c) a second utility program, resident on said second portable system, locating said first data type identifier in said information packet using said token, (see col.4, lines 51-59).

d) said second utility program indexing a relevant one of a plurality category types corresponding to said first category type identifier of said

application registry with said first data type identifier, to determine a destination application that is associated with said first data type identifier, (see col.4, lines 51-59) , and

e) supplying said data packet to said destination application. (See col.4, lines 51-59).

Gai does not teach a wireless transport mechanism. However Fox teaches wireless transport mechanism (see fig.1, fig.2 and col.3 lines 41-51). It would have been obvious to one of the ordinary skill in the art at the time of the invention to include wireless transportation mechanism to allow the connection from a different geographical location.

As to claim 9, Fox teaches first computer system and second computer systems are hand held portable systems (see fig.1 and col. 3. lines 42 - 51).

As to claim 10, Gai does not explicitly teach a communication protocol as wherein transport mechanism is substantially compliant with the Short Message Service (SMS) standard, where as Fox teaches a communication protocol as wherein transport mechanism is substantially compliant with the Short Message Service (SMS) standard. (See col.2 lines 42-55). It would have been obvious to one of the ordinary skill in the art at the time of the invention to include the Short Message Service (SMS) standard in Gai invention to convert unproductive time to productive time.

As to claim 11, Fox teaches a communication protocol wherein transport mechanism includes the use of a GSM wireless communication device. (See fig.1 and col. 2. lines 42-51).

As to claim 12 Gai teaches the system of claim 8 where in said first category type identifier is numeric value (see col. 8 lines 9 – 15).

Response to Arguments

8. Applicant's arguments with respect to claim have been considered but are moot in view of the new ground(s) of rejection. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sargon N. Nano whose telephone number is (571) 272-4007. The examiner can normally be reached Monday through Friday, from 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sargon Nano
8 June 2006


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